



**Before The
State of Wisconsin
DIVISION OF HEARINGS AND APPEALS**

In the Matter of the Wisconsin Pollutant Discharge
Elimination System Permit No. WI-0020915-09-0
(WPDES Permit) Re-issued to the Village of
Cashton

Case No. DNR-17-0003

NOTICE OF PREHEARING CONFERENCE

On March 25, 2013, the Department of Natural Resources (DNR) reissued WPDES Permit No. WI-0020915-09-0 to the Village of Cashton, to discharge from a facility located at N26818 Market Road, Cashton, Wisconsin.

On May 23, 2013, Attorney Paul G. Kent on behalf of the Village of Cashton filed a Petition for a Contested Case Hearing with the DNR to review the reasonableness of and necessity for certain terms in the permit, pursuant to Wis. Stat. § 283.63, Wis. Admin. Code. Ch. NR 2, and Wis. Admin. Code. §§ 203.14 to NR. 203.20.

By letter dated January 16, 2014, the DNR granted the request for contested case hearing and limited the hearing to the following issues:

1. Is the final phosphorus water quality based effluent limitation in section 2.2.1.3 of the permit unreasonable and unnecessary because the permittee intends to collect additional data to support a site specific criterion under Wis. Admin. Code § NR 102.06(7)?
2. Is the compliance schedule for the phosphorus water quality based effluent limitation unreasonable because it does not specifically reference the option for a site specific criterion, and it fails to allow additional time to collect data to support a site specific criterion?
3. Was it reasonable for the DNR to express the phosphorus water quality based effluent limitation as a six-month average concentration?
4. Was it reasonable for the DNR to include a mass limit for phosphorus in the permit? If it was reasonable for the DNR to do so, is the numeric value of the mass limit correctly calculated pursuant to Wis. Admin. Code Ch. NR 217?

On March 27, 2017, the Division of Hearings and Appeals received a Request for Hearing from the DNR.

NOTICE IS HEREBY GIVEN that the State of Wisconsin Division of Hearings and Appeals will hold a prehearing conference on the above-captioned matter pursuant to Wis. Stat. §§ 227.44, Wis. Admin. Code § NR 2.08(5), and Wis. Admin. Code § NR 2.12, **at 9:30 AM on June 13, 2017**, at the offices of the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, Wisconsin. Any person, organization or governmental unit wishing to become a party to this proceeding must appear at the conference in person or by an authorized representative. The purpose of the prehearing conference will be to identify parties to the proceeding, to simplify or clarify the issues which may be contested at the hearing, identify witnesses, discuss the exchange of exhibits, establish a discovery schedule, address any other matters as may aid in the disposition of the action, and schedule a date for the contested case hearing. No testimony will be heard at the prehearing conference; however, a date may be set for a contested case hearing.

If a contested case hearing is scheduled, it will be a Class 1 contested case pursuant to Wis. Stat. § 227.01(3)(a). The procedures set forth in Wis. Stat. § 283.63(1)(b) and the procedures relating to contested cases set forth in Wis. Admin. Code Ch. NR. 2 will be followed. The procedures that will be followed at the contested case hearing will closely resemble those that are normally followed at a trial in State circuit court. All parties are advised that they have the right to seek the aid and assistance of legal counsel and to be represented by legal counsel at the contested case hearing.

The permits, petitions and other information relating to the petitioner are on file and may be inspected and copied at the offices of the Department of Natural Resources, 101 South Webster Street, Madison, Wisconsin, between the hours of 9:00 a.m. and 3:30 p.m., Monday through Friday, holidays excepted. Copies of documents on file for the applicant may be obtained by writing to the Department of Natural Resources, WPDES Permit Section, P.O. Box 7921, Madison, Wisconsin, 53707-7921. Reasonable costs will be charged for copies of all information excluding public notices and fact sheets.

Pursuant to the Americans With Disabilities Act, reasonable accommodations will be made to any qualified individual upon request. Please call the Division of Hearings and Appeals at (608) 266-3865 with specific information on your request prior to the date of the scheduled prehearing or hearing.

Dated at Milwaukee, Wisconsin on April 21, 2017.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
819 North 6th Street, Suite 92
Milwaukee, Wisconsin 53203
Telephone: (414) 227-5141
FAX: (414) 227-3818

By


ERIC D. DEFORT
ADMINISTRATIVE LAW JUDGE